

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 07 2013

Phil Lombardi, Clerk
U.S. DISTRICT COURT

(1) RICHARD L. SHIELDS, an individual,)
)
Plaintiff,)
)
vs.)
)
(1) SAFECO INSURANCE COMPANY)
OF AMERICA, a Foreign Insurance Company)
Doing Business in Oklahoma,)
)
Defendant.)

Case No. **13 CV 17 GKF** TLW

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Safeco Insurance Company of America ("Safeco") hereby removes the above-captioned action from the District Court of Creek County, State of Oklahoma, to the United States District Court for the Northern District of Oklahoma. In support of this removal, Safeco states as follows:

1. On or about December 11, 2012, Plaintiff commenced an action in the District Court of Creek County, Oklahoma, entitled *Shields v. Safeco Insurance Company of America*, as Case No. CJ-2012-555 (the "State Court Action"). A true copy of all process, pleadings, and orders in the State Court Action are attached hereto as Exhibit 1.

2. Safeco was first served with the summons and a copy of the Petition in the State Court Action through the Oklahoma Insurance Commissioner on or about

[Handwritten signature]

December 18, 2012. A copy of the summons is included in Exhibit 1, attached hereto.

This Notice of Removal is timely filed under the provisions of § 1446.

3. The Northern District of Oklahoma includes the state judicial district in which Plaintiff filed his Petition.

4. This is a civil action over which this Court has original jurisdiction based on diversity of citizenship and amount in controversy pursuant to 28 U.S.C § 1332, and which may be removed to this Court pursuant to 28 U.S.C. § 1441. At the time of filing this action and at the present time, Plaintiff was and is a resident and citizen of the State of Oklahoma. Safeco is a New Hampshire company with its principal place of business in Boston, Massachusetts, and is, therefore, a citizen of the States of New Hampshire and Massachusetts under 28 U.S.C. §1332(c)(1). Safeco is not a citizen of Oklahoma.

5. The Petition asserts a cause of action for breach of an insurance contract and breach of good faith and fair dealing in the handling of a claim on an insurance policy. (*See* Petition, at ¶¶ 10-20). The amount in controversy for each cause of action exceeds \$75,000, exclusive of interest and costs. (*See* Petition, ¶¶ 16, 20, and Prayer for Relief).

6. Contemporaneous with Safeco's filing of this Notice, Safeco will serve written notice to Plaintiff's counsel of the filing, as required by 28 U.S.C. §1446(d).

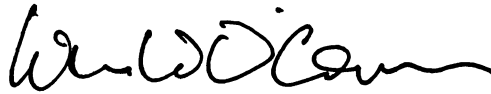
7. Safeco shall likewise file a true and correct copy of its Notice of Removal with the Clerk of the District Court in and for Creek County, State of Oklahoma, as

required by 28 U.S.C. §1446(d).

CONCLUSION

Defendant Safeco Insurance Company of America respectfully requests that the State Court Action be removed from the District Court for Creek County, Oklahoma, to the United States District Court for the Northern District of Oklahoma, and proceed as an action properly removed thereto.

Respectfully submitted,



William W. O'Connor, OBA No. 13200

Lindy H. Collins, OBA No. 30579

NEWTON, O'CONNOR, TURNER & KETCHUM, PC

2700 Bank of America Center

15 West Sixth Street

Tulsa, Oklahoma 74119-5423

(918) 587-0101

(918) 587-0102 (facsimile)

boconnor@newtonoconnor.com

lcollins@newtonoconnor.com

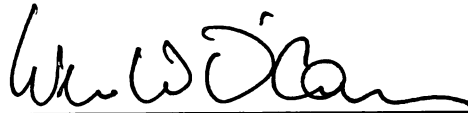
**ATTORNEYS FOR DEFENDANT,
SAFECO INSURANCE COMPANY OF AMERICA**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *Notice of Removal* was sent via United States Mail this 7th day of January, 2013 to the following:

Trevor L. Hughes
JOHNSON & JONES, P.C.
2200 Bank of America Center
15 West Sixth Street
Tulsa, Oklahoma 74119-5416

Jacob W. Biby
MARTIN, JEAN & JACKSON
2100 S. Utica Ave., Ste. 215
Tulsa, Oklahoma 74114

A handwritten signature in black ink, appearing to read 'William W. O'Connor', written over a horizontal line.

William W. O'Connor

Case Information**Offense or Cause**

SHIELDS, RICHARD vs.
SAFECO INSURANCE
COMPANY

NEGLIGENCE

Case Identifier Creek (Sapulpa) OK — CJ-
2012-00555

Type of Case Civil Cases in which the
relief sought exceeds
\$10,000

Date Filed 12/11/2012

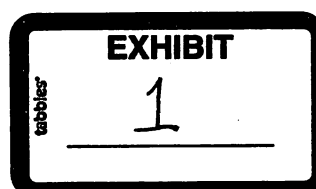
Amount Owed \$0.00 (as of 01/07/2013 12:02pm)

Parties Involved

Defendant SAFECO INSURANCE COMPANY *of Oklahoma City OK*
Judge PARISH, LAWRENCE *of Okemah OK*
Plntf Atty. JOHNSON & JONES *of Tulsa OK*
Plaintiff SHIELDS, RICHARD
Plntf Atty. HUGHES, TREVOR L *of Tulsa OK*
Plntf Atty. MARTIN JEAN & JACKSON *of Stillwater OK*
Plntf Atty. BIBY, JACOB W. *of Tulsa OK*

Case entries

Date	Description	Amount
12/11/2012	FILE AND ENTER PETITION	\$163.00
	(Entry with fee only)	\$6.00
	(Entry with fee only)	\$2.00
	Oklahoma Court Information System Fee - Effective 07/01/04	\$25.00
	LENGHTY TRIAL FUND	\$10.00
	OK COURT APPOINTED SPECIAL ADVOCATES	\$5.00
	10% OF CASA TO COURT CLERK REVOLVING FUND	\$0.50
	OK COUNCIL ON JUDICIAL COMPLAINTS REVOLVING FUND	\$2.00
	10% OF COJC TO COURT CLERK REVOLVING FUND	\$0.20
12/11/2012	SUMMONS ISSUED SAFECO INSURANCE COMPANY RETURN TO ATT	\$5.00
12/11/2012	ENTRY OF APPEARANCE - JACOB W BIBY	
12/11/2012	ENTRY OF APPEARANCE - TREVOR L HUGHES	
Grand Total		\$218.70



Receipts

Date	Description	Amount
12/11/2012	Receipt 1A-236781 received of JOHNSON & JONES	\$218.70
Grand Total		\$218.70

FILED IN DISTRICT COURT
CREEK COUNTY SAPULPA OK

DEC 11 2012

TIME 1:00
Amanda VanOrsdol, COURT CLERK

IN THE DISTRICT COURT OF CREEK COUNTY
STATE OF OKLAHOMA

RICHARD L SHIELDS an individual,

Plaintiff,

vs.

SAFECO INSURANCE COMPANY OF
AMERICA, a Foreign Insurance Company
Doing Business in Oklahoma,

Defendant.

Case No.: CJ-2012- 555

ATTORNEYS LIEN
CLAIMED

Lawrence W. Parish

PETITION

COMES NOW the Plaintiff, Richard Shields, and for his causes of action against
the above named Defendant alleges and states as follows:

FACTUAL BACKGROUND

1. On November 24, 2008, Plaintiff was traveling by automobile southbound
on Mission Street, Sapulpa Oklahoma, approaching the intersection of Taft Street (also
known as Highway 117).

2. While waiting at the stoplight for this intersection, his vehicle was struck by a
vehicle operated by Patricia Ann Danner, who had been rear-ended by the tortfeasor
Paige Lyles.

3. Ms. Danner's automobile struck the Plaintiff's automobile because of the
careless driving of the tortfeasor Lyles.

4. The negligent acts of tortfeasor Lyles directly and proximately caused harm to
the Plaintiff by way of physical injury and damage to property.

5. That at the time of the collision the tortfeasor was driving an underinsured motor vehicle.

6. That as a result of the tortfeasors negligence Plaintiff Richard Shields sustained personal injury, medical attention and medical bills resulting in damages in excess of \$75,000.00.

7. At the time of the November 24, 2008 collision Richard Shields was an insured under an uninsured motorist policy which contracted with Safeco Insurance Company, policy number Y6554258, ("POLICY").

8. The POLICY was written for the 1996 Nissan Pathfinder LE involved in the collision and as liability coverage has been exhausted and failed to fully compensate Plaintiff's for their injuries, the POLICY is now the primary coverage.

9. As the accident and injury to Plaintiff occurred in Creek County Oklahoma, and the insurance policy herein was contracted in Oklahoma, jurisdiction and venue are hereby proper before this Court.

CAUSE OF ACTION I: BREACH OF INSURANCE CONTRACT

10. Plaintiff hereby reincorporates and realleges all of the allegations contained in paragraphs 1 through 9 above.

11. That Safeco Insurance Company had contractual obligations to Plaintiff as its insured, pursuant to the insurance contract, statute and regulatory guidelines.

12. On March 12, 2010, Plaintiff through his counsel placed Safeco Insurance Company on notice that insufficient coverage by tortfeasor Paige Lyles may exist, and if so, that under the POLICY, Safeco could become obligated to provide underinsured motorist benefits.

13. On April 25, 2012 Plaintiff made demand under the uninsured/underinsured portion of his POLICY.

14. That in the time following Plaintiff's demand, Defendant engaged in activities that led to them refusing to pay Plaintiff the full value of his claim.

15. That based upon the activities and conduct of Safeco Insurance Company with respect to the handling of Plaintiff's uninsured motorist claim, Defendant breached its contractual, statutory and regulatory obligations to Richard Shields.

16. As a direct and proximate result of Defendant's wrongful conduct as alleged above, Plaintiff has suffered financial losses and expenses as well as significant physical and mental pain and suffering totaling in excess of \$75,000.00.

CAUSE OF ACTION II: BAD FAITH

17. Plaintiff hereby reincorporates and realleges all of the allegations contained in paragraphs 1 through 15 above.

18. In connection with the insurance coverage that was in force at all times relevant to this Petition, Defendant owes Plaintiff a duty of good faith and fair dealing with respect to the handling of their insurance claims.

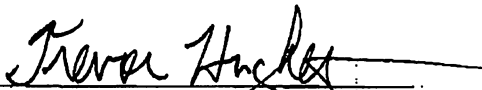
19. That based upon the activities and conduct of Defendant with respect to the handling of Plaintiff's uninsured motorist claim, Defendant has breached its duty to deal with its insured fairly and in good faith.

20. Defendant's conduct was so willful, deliberate and calculated as to justify the imposition of punitive damages, not only to punish and deter Defendant for its wrongful conduct as alleged herein but also to deter other insurance companies and Defendant

from behaving in a similar fashion in the future. Said punitive or exemplary damages amount to a total in excess of \$75,000.00.


WHEREFORE, premises considered, Plaintiff prays for judgment against Defendant in an amount in excess of \$75,000, as and for general and special damages; for exemplary or punitive damages as allowed by law; together with pre-judgment and post-judgment interest, attorney fees, costs, and any other relief this Court deems just and equitable.

Respectfully Submitted,
JOHNSON & JONES, P.C.


Trevor L. Hughes, OBA No. 21229
2200 Bank of America Center
15 West Sixth Street
Tulsa, Oklahoma 74119-5416
Telephone: (918) 584-6644
Fax: (888) 789-0940

-AND-

MARTIN, JEAN & JACKSON


Jacob W. Bibby, OBA # 22063
2100 S. Utica Ave., Ste 215
Tulsa, OK 74114
Ph. 918.743.4000
Fax 918.743.4001
jbiby@mjjlawfirm.com

ATTORNEYS FOR PLAINTIFF

7232

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
DEC 18 2012
Legal Division

SUMMONS
IN THE DISTRICT COURT OF CREEK COUNTY, STATE OF OKLAHOMA

RICHARD L. SHIELDS, an Individual,

Plaintiff,

vs.

SAFECO INSURANCE COMPANY OF AMERICA,
a foreign insurance company doing business in
Oklahoma,

Defendants.

Case No.

Plaintiff directs that this summons be served by:

____ Sheriff ☒ Cert Mail ____ Process Server

CJ-2012- 555

ATTENTION: Sheriff, Deputy Sheriff, Process Server

When service has been made, immediately return this copy to the Court Clerk who issued it.

Please serve the attached summons on:

Safeco Insurance Company of America C/O Oklahoma Insurance Commissioner, P.O. Box 53408, Oklahoma City, OK
73152-3408 or anywhere it may be found.

Plaintiff or Attorney for Plaintiff:
Trevor L. Hughes, OBA # 21229
15 W 6th St., Ste 2200
Tulsa, Oklahoma 74119
(918) 584-6644

Process Server, _____,
appointed to serve, PSL No.

Authorized by

TO THE ABOVE NAMED DEFENDANT(s):

You have been sued by the above named plaintiff(s), and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff.

Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

Issued this 11 day of December, 2012.

By PEGGY HILL
Deputy Court Clerk

TO THE ABOVE NAMED DEFENDANT(s)

This summons was served on _____.

Signature of person serving summons

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

FILED IN DISTRICT COURT
CREEK COUNTY SAPULPA OK

DEC 11 2012

TIME 1:00
Amanda VanOrsdol, COURT CLERK

**IN THE DISTRICT COURT OF CREEK COUNTY
STATE OF OKLAHOMA**

RICHARD L SHIELDS an individual,

Plaintiff,

vs.

**SAFECO INSURANCE COMPANY OF
AMERICA, a Foreign Insurance Company
Doing Business in Oklahoma,**

Defendant.


Case No.: **CJ-2012- 555**

**ATTORNEYS LIEN
CLAIMED**

ENTRY OF APPEARANCE

COMES NOW Jacob W. Biby of Martin Jean and Jackson and enters his
appearance as co-counsel of record for the Plaintiff, Richard Shields.

Respectfully Submitted,
MARTIN, JEAN & JACKSON


Jacob W. Biby, OBA # 22063
2100 S. Ulster Ave., Ste 215
Tulsa, OK 74114
Ph. 918.743.4000
Fax 918.743.4001
jbiby@mjjlawfirm.com

ATTORNEYS FOR PLAINTIFF

FILED IN DISTRICT COURT
CREEK COUNTY SAPULPA OK

IN THE DISTRICT COURT OF CREEK COUNTY
STATE OF OKLAHOMA

DEC 11 2012

TIME
Amanda VanOrsdol, COURT CLERK

RICHARD L SHIELDS an individual,

Plaintiff,

vs.

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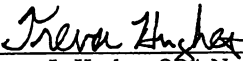
Case No.: **CJ-2012- 555**

ATTORNEYS LIEN
CLAIMED

ENTRY OF APPEARANCE

COMES NOW Trevor L. Hughes of **JOHNSON & JONES, P.C.** and enters his
appearance as counsel of record for the Plaintiff, Richard Shields.

Respectfully Submitted,
JOHNSON & JONES, P.C.


Trevor L. Hughes, OBA No. 21229
2200 Bank of America Center
15 West Sixth Street
Tulsa, Oklahoma 74119-5416
Telephone: (918) 584-6644
Fax: (888) 789-0940

ATTORNEYS FOR PLAINTIFF

5